

REMARKS

Claims 1-64 are canceled. New claims 65-75 are presented. Claims 65, 70, and 71 are independent claims.

A Request for Continued Examination (RCE) and fee are filed concurrently herewith. Removal of the finality of the Office Action is respectfully requested.

I. ISSUES RELATING TO PRIOR ART

The prior claims stand rejected under 35 U.S.C. § 103(a) as unpatentable over Mishra in view of Peters. The rejections are respectfully traversed.

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references cited and relied upon must teach or suggest all the claim limitations. In addition, a sufficient factual basis to support the obviousness rejection must be proffered. *In re Freed*, 165 USPQ 570 (CCPA 1970); *In re Warner*, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 148 USPQ 721 (CCPA 1966). The Office Action fails to satisfy these criteria for the rejections of the claims.

A. **Peters Is Non-Analogous Art and Should Be Removed From the Case.**

The Office Action admits that Mishra does not show the automatic event subscription feature of the claims. In the previous claims, automatic event subscription was recited as “sending information to the event bus that requests the event bus to subscribe the network device to all events in the subject list.” In all the present independent claims 65, 70, and 71, the feature is recited as “automatic event subscription logic encoded in one or more media for execution and when executed operable to ... sending one or more event subscribe requests to the event bus that request the event bus to subscribe the router to all events in the subject list,” or equivalent instructions or means. To fill this gap, the Office Action contends that Peters shows “a similar system” (page 3), that “router is well known and routinely used for routing data packets” (page

3), and that “the main purpose of the invention is an improvement in the publisher subscriber art, rather than an improvement for a router system” (page 8).

This is incorrect. A “purpose of the invention” as formulated by an Office Action is irrelevant to examination of the claims and is an improper basis for rejection. Any “purpose” of the invention, to the extent that concept is relevant, must come only from Applicants’ specification and the claims subject to examination, not a recasting or reformulation by the Office. Further, Peters is dissimilar. Peters “relates to customized publications and more particularly to selection of content for such publications” as stated at [0001]. In Peters, a “subscriber list” is a list of end stations, not infrastructure devices such as routers and not events, that wish to subscribe to **print publications** such as magazines, newsletters, and custom newspapers that are printed using printer 112 [0025].

The mere presence in Peters of the terms “publish” and “subscriber” does not make Peters relevant to the invention as claimed. The Office Action located Peters by a keyword search and now seeks to shoehorn Peters into relevancy, but it is a futile effort. Peters has no pertinence to techniques for automatically subscribing routers or other network devices to events that a software event bus publishes, as claimed. Peters should be removed as a reference.

B. Mishra and Peters Do Not Generate a List of Events for Subscription.

All the present independent claims recite automatically “identifying an event subject list that identifies all subjects that are available using the event bus and to which the router should subscribe.” The Office Action contends that Peters teaches the claimed list. This is incorrect. The “subscriber list” of Peters identifies end stations or persons that wish to subscribe to **print publications** such as magazines, newsletters, and custom newspapers that are printed using the printer, as stated in [0025], [0036]. Thus, the list of Peters identifies **recipients**. In contrast, the

claimed list identifies **subjects to which the router should subscribe**. The concepts are completely different: Peters' list identifies **who**, and the claimed list identifies **what**. For this fundamental reason, a combination of Mishra and Peters cannot provide the claimed approach.

C. Mishra and Peters Do Not Automatically Subscribe Devices to Events.

1. **Automatic subscription.** Automatically subscribing devices to events associated with groups of which the devices are members, so that the devices do not have to independently determine and subscribe to each event that is pertinent to a group, is fundamental to the claimed embodiments. All the present independent claims recite: "in response to receiving the event subscribe request: locating the router identifier and the event identifier in the mapping; identifying the logical group of which the router is a member; based on the logical group, router identifier and event identifier, identifying an event subject list that identifies all subjects that are available using the event bus and to which the router should subscribe; and sending one or more event subscribe requests to the event bus that request the event bus to subscribe the router to all events in the event subject list." Thus, the claims provide an approach in which devices automatically become subscribed to events, even when the devices are unaware that they should subscribe to those events.

The Office Action contends that Mishra teaches automatically subscribing a network device to a plurality of events applicable to a logical group of which the device is a member, as recited in the preamble of former claim 21. This is incorrect. The Office Action relies on the Abstract of Mishra, but the Abstract provides for **no automatic subscription**: "The application client may specify a rule, the satisfaction of which is a precondition to the delivery of the notification. The application client, in this manner, receives only the notification for which it has subscribed ..." (Mishra, Abstract). This approach **teaches away** from the claimed approach by

requiring clients to define notification (event subscription) rules. In contrast, the claimed approach **determines what events devices should subscribe to**, independent of the devices, based on the claimed mapping, which indicates group membership. For at least this reason, Mishra in combination with Peters cannot provide the claimed approach.

2. Responsiveness. The Office Action also fails to show the claimed feature of determining a subject list **in response to receiving a request**. In Applicants' last reply, Applicants showed this flaw in the rationale of the Office Action; in response, the Office Action contended that the claimed feature was not in the claims (Office Action, page 8, 25(a)). This is incorrect; responsiveness is expressly claimed and was expressly claimed in former claim 21.

The Office Action contends that Mishra, which provides a database system, shows creating and storing the specifically claimed mapping, receiving a subscribe request, and looking up in the mapping. The Office Action also contends that Peters shows a subject list and sending information to the event bus. However, a concept fundamental to all the independent claims is that **in response to receiving a router's request to subscribe to one event, the router is automatically subscribed to other events** associated with a group that contains the router. Mishra and Peters, alone or taken in the combination proposed in the Office Action, lack any teaching or suggestion of the complete automatic subscription process provided in the claims.

The rationale of the Office Action requires overlooking features of the claims, which is impermissible. For example, at page 4, the Office Action notes that Mishra does not teach "receiving a subject list **in response thereto**, wherein the subject list identifies all subjects to which the router should subscribe." The Office Action relies on Peters to show a subject list, but ignores the claimed feature of responsiveness—that the subject list is automatically generated

after the first event subscription request is received. Mishra and Peters lack the **responsiveness** provided in the claims, and therefore cannot suggest the complete claimed combination.

As seen in Peters FIG. 4 step 400, for example, the subscriber list of Peters is not generated in response to anything—it simply appears. Mishra describes agents entering subscriptions on behalf of clients to receive notification. But when a notification event occurs, the notification event does not induce any automatic subscription of client to other events.

The Office Action rationalizes a combination of Mishra and Peters on “reduced burden on the network device as the subscription list is centrally stored on a remote network device.” This rationale is flawed, however, because central storage is not a goal or point of the claims. Instead, the claims provide an automatic subscription approach in which a requesting router automatically is subscribed to other events that are known to interest the router or its group, relieving the burden on the devices to independently determine necessary events. Neither Mishra nor Peters provide such a motivation to combine one with the other.

The Office Action further admits that Mishra does not teach a router, but contends that treating a router as a client device or network device subscribing to events would have been obvious on the theory that implementing the claims in a router is a “matter of design choice.” Applicants disagree. Applicants are claiming an event gateway and other elements that interact with routers, and to support a rejection under §103 the Office must show all such features in the references. Reliance on “design choice” or that routers were “well known” for other functions does not satisfy the burden on the Office for a rejection under §103; the rejection must be supported by **evidence** that supports a rationale that is **explained**. *In re Kahn*, 78 USPQ2d 1329 (Fed. Cir. 2006).

While the Office Action takes “official notice” that a router is well known and routinely used for routing data packets (page 3), the “official notice” is **irrelevant**. Applicant is not claiming a router for routing data packets. The claims relate to **automatically subscribing routers to events**, a function unknown in the art. Thus, the “official notice” does not improve the Office Action one iota, because the sum of the references does not suggest the complete claimed combination.

D. Mishra and Peters Fail to Provide Other Features of the Claims

The Office Action contends that Mishra shows “creating and storing a mapping that associates a plurality of routers with the logical group and that associates the logical group with one or more events that can pass over an event bus to which the router communicates” at col. 5, lines 25-40 (names schema). This is incorrect. The claimed mapping is a two-way association: routers are associated with a group, and a group is associated with events. In Mishra, the names schema 330 only “stores the delivery information that specifies to which client(s) ... the notification is to be delivered and how the notification is to be sent.” The names schema of Mishra **does not associate a group (or agent) with routers, clients, or events**. In Mishra, an agent may subscribe client(s) to events, but information identifying only the clients, not the agent, is stored in the names schema 330. Therefore, Mishra fails to provide a claimed feature, and a combination of Mishra and Peters cannot provide the complete claimed combination.

The responsive argument of the Office Action at page 8, paragraph 25(c), is incorrect. An “agent” of Mishra **subscribes itself and not the clients** to events (“all subscriptions 320 in the system ... ‘belong’ to an agent and an agent may have multiple subscriptions 320.” (5:26-28)). In contrast, in Applicants’ claimed approach, a gateway acting on behalf of routers **subscribes the routers and not itself** to the events. The Office Action contends that the

“second level of association” of Mishra associates subscriptions with clients. Yet Applicants’ approach is still different, because the claimed approach **subscribes the clients (routers) themselves to the events** without using the indirection provided in Mishra. In Mishra one agent subscribes and then the name schema allows “fanning out” the subscription to multiple clients; Applicants avoid this completely by directly subscribing the clients to the events.

Further, the Office Action contends that Mishra shows “receiving a subscribe request from the network device” **through an agent**. But previously, the Office Action contends that the agent of Mishra is equivalent to the claimed group. Contending that Mishra’s agent is both a group and a router is inconsistent. A skilled artisan would not interpret a reference inconsistently as asserted.

The Office Action cannot reasonably contend that any of the foregoing specific claimed steps are found in the cited parts of Mishra, Peters, or anywhere else. For at least all of the foregoing reasons, a §103 obviousness rejection based on Mishra and Peters is unsupported. Reconsideration and allowance of the independent claims are respectfully requested.

E. The Office Action Relies on Impermissible Hindsight

Taken in its entirety, the Office Action requires accepting an unreasonably elaborate series of propositions. The Office Action asks the reader to accept that Mishra, describing an agent in a database system for distributing database notifications resulting from database triggers, applies to automatic subscription of routers to event bus events as claimed; that Peters, relating to magazine subscription lists, nevertheless can be combined with a database system to provide the automatic router event subscription system that is claimed; that Mishra and Peters, while never describing automatic, responsive subscription, would be so interpreted by one of skill in the art; that a database system is close enough to a router system; and so forth.

Taken alone, one of these propositions might be supportable. But collectively, these propositions ask the reader to accept that two references having nothing to do with the problem that Applicant describes, neither of which show the solution specifically claimed, are sufficient to suggest the specific solution to a skilled artisan. The totality of the propositions is not credible as a rationale to combine and represents stitching together unrelated references to arrive at something similar to the claims.

As stated by the Court of Appeals for the Federal Circuit, “[t]o imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of hindsight syndrome where that which only the inventor taught is used against its teacher.” *W. L. Gore & Assocs v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983).

The Federal Circuit has recently reiterated that “the tests of whether to combine references need to be applied rigorously.” *McGinley v. Franklin Sports Inc.* 262 F.3d 1339, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001). Broad, conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence” (*McElmurray v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993)), and a general relationship between fields of the prior art references is insufficient to suggest the motivation to combine such references (see *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999)).

Moreover, the Office Action statement is conclusory and does not meet the standard for an obviousness rejection under 35 U.S.C. §103(a). The stated goal for a combination of the reference is so general and vague that it cannot rationalize the specific invention that is claimed. It is well-settled that “[i]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is

rendered obvious” and that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention” (*In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992); quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988)).

F. The Dependent Claims Are Allowable

Claims 66-69 and 72-75 each depend from one of the independent claims 65, 70, 71. By virtue of dependency, claims 66-69 and 72-75 include each any every step, feature and limitation of the independent claims. Because the proposed combination of Mishra and Peters fail to teach, disclose or suggest the independent claims, the references necessarily cannot suggest the subject matter of claims 66-69 and 72-75. Therefore, claims 66-69 and 72-75 are allowable for the same reasons set forth above with respect to claims 65, 70, and 71.

II. CONCLUSION

Based on the foregoing, new claims 65-75 are allowable over the cited references. Appellants respectfully request reconsideration.

If any applicable fee is missing or insufficient, the Director is hereby authorized to charge any applicable fee to our Deposit Account No. 50-1302.

Respectfully submitted,

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